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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,970	08/18/2005	Tatsuro Irimura	62870(70232)	1465
21874	7590	11/16/2006	EXAMINER	
EDWARDS & ANGELL, LLP P.O. BOX 55874 BOSTON, MA 02205			LIU, SUE XU	
			ART UNIT	PAPER NUMBER
			1639	

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/524,970

Applicant(s)

IRIMURA ET AL.

Examiner

Sue Liu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-16 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group 1, claim(s) 1-5, drawn to a lectin library comprising at least one kind of lectin.

Group 2, claim(s) 6-10, drawn to a method of discriminating glycoproteins or cells.

Group 3, claim(s) 11-14, drawn to a diagnostic kit comprising a lectin library and other reagents.

Group 4, claim(s) 15 and 16, drawn to an apparatus for fractionation of glycoproteins or cells.

2. The inventions listed as Groups 1-4 do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The special technical feature (i.e. a lectin library) of Group 1 is known in the prior art. Yim et al (PNAS. Vol. 98: 2222-2225; 2/27/2001; cited in the IDS filed 8/18/2005: cite No. CC) teach a lectin library useful for identify different cells (see the entire document). The reference teaches a library mutant lectin that can bind to erythrocytes, and be useful for discriminate a variety of cell types (Abstract of the reference), which reads on the lectin library claimed in the

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instant claims. Therefore, Groups 1-4 are not so linked by the same or a corresponding special technical feature as to form a single inventive concept. Thus, the inventions lack unity.

### ***Species Election***

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Applicants are requested to further elect **a single ultimate species for each** of the following:

- a. A single specific "kind" of lectin. (For Groups 1-4)
- b. Applicants are also requested to specify the specific entity for which the elected lectin (from the above selection) has affinity (see Claim 1). If Applicants elect "pseudo-cells" or "cells", applicants are requested to further elect either "erythrocytes" **OR** "glycophorin". (For Groups 1-4)
- c. A single specific type of cell that is discriminated (see Claims 5 and 10). (For Groups 1-4).
- d. A single specific method selected from the followings: discriminating glycoproteins, discriminating cells, diagnosing serum, diagnosing cells, fractionating glycoproteins, **OR** fractionating cells (see Claim 6). (For Group 2)
- e. A single specific species of "another substance" (see Claim 7). (For Groups 2 and 3)

4. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special

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technical features for the following reasons: The species are distinct, each from the other structurally and functionally, because their modes of action are different. Therefore, the species have different issues regarding patentability and represent patentable distinct subject matter.

5. The claims are deemed to correspond to the species listed above in the following manner: Please see the above species selection for correspondence between the claims and the species selection.

The following claim(s) are generic: 1, 6, 11 and 15.

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue Liu whose telephone number is 571-272-5539. The examiner can normally be reached on M-F 9am-3pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Paras can be reached on 571-272-4517. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 11/8/06  
MY-CHAU T. TRAN  
PATENT EXAMINER

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Art Unit 1639  
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